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IN THE

Supreme Court of the United States

OCTOBER TERM 1962

No. [redacted] 200

CLARENCE D. TIPTON,
Petitioner,

versus

SOCONY MOBIL OIL COMPANY, INC.,
Respondent.

PETITION FOR REHEARING

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HAUSER PRINTING CO., INC., NEW ORLEANS

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No. 1,172

CLARENCE D. TIPTON,

Petitioner,

versus

SOCONY MOBIL OIL COMPANY, INC.,

Respondent.

PETITION FOR REHEARING

May It Please the Court:

Socony Mobil Oil Company, respondent, petitions the Court for a rehearing insofar as the decree entered on October 21, 1963 vacates the judgment of the District Court and remands the case for further proceedings.

GROUNDS FOR REHEARING

This suit by an oil field worker was instituted under the Jones Act (46 U.S.C. 688) on the basis of an allegation that the petitioner was a seaman. The issue as to status was sharply pointed up by the pleadings and the proof, and at the trial, evidence was introduced to show that petitioner had spent his life working in the Texas and Louisiana oil fields, that he had done no other work, that he had never been to sea, and that he had never been employed aboard any vessel. Additionally, respond-

ent offered evidence to show that petitioner had received and retained compensation benefits paid under the Longshoreman's and Harbor Workers' Act, (33 U.S.C. 901 *et seq.*) which was expressly made applicable to oil field workers by the Outer Continental Shelf Lands Act (43 U.S.C. 1331). This evidence was but one part of respondent's defence that petitioner was not a seaman. District Judge Connolly held that the evidence as to compensation benefits was proper and could be considered by the jury in connection with the plaintiff's alleged status as a seaman. The Court of Appeals for the Fifth Circuit with Judges Hutcheson and Wisdom constituting the majority affirmed.

Innumerable cases such as this, which in the Gulf area are colloquially known as "status" cases, are presently pending in the United States Courts in Texas and Louisiana. Day in and day out, persons who have grown up in the oil fields and who have never seen the sea, but who sustain injuries as the result of the hazards of drilling which are common to land based, as well as water based operations when working on submersible drilling barges inshore and offshore, on drilling tenders, and on drilling platforms, are bringing suits under the Jones Act which accords to seamen a cause of action for damages based on negligence.

In the petition for the writ of certiorari herein, the "Question Presented" is stated as follows:

> "Can a jury be expected to give a man a fair trial where it has knowledge of a prior Workman's Compensation remedy which had nothing to do with his status under the Jones Act?"

On the basis of the question presented, we would agree with Justice Harlan that this case is not "certworthy".

When considered in the light of the numerous "status" cases pending, however, the short opinion of the Court becomes most important and, we submit, will create confusion in the trial of these cases unless it is reconsidered and more definite benchmarks are set.

The issue as to receipt of compensation payments has two facets, the first of which is status and the second damages. The second facet is not important here since it was not reached by the jury. In the Court's *per curiam*, however, it is indicated that evidence of compensation payments is admissible if proper "cautionary" instructions are given. It is impossible to determine exactly what is meant by this statement, whether in the context of the statement such evidence is admissible in regard to damages as well as status, or in what area the caution must be exercised.

We recognize, of course, that the Court's docket is extremely congested, but this problem is *res nova* in the jurisprudence of the Supreme Court, and has been decided without the pertinent legal principles being thoroughly briefed and argued to the Court. In fact, the issue involved here, to our knowledge, has never been considered in this field of "status" which is a factual situation resulting from the recently commenced offshore exploration for oil and gas. What was originally an "uncertworthy" case has, because of this Court's opinion, now become important, and, unless the rule of law is clarified, will breed numerous offspring to harass the Court in the future.

Oppositions to petitions for writs of certiorari are not required by the Rules, and this Court is aware that as a practical matter, when oppositions are filed, they are generally devoted to a discussion of reasons why the

writ would not be granted rather than to any extensive discussion of the merits of the case. We sincerely believe, and submit to the Court, that this is not a case for disposition without the benefit of briefing on the merits and oral argument. It is believed that if oral argument and briefs are permitted here, and if the Court affords us an opportunity to acquaint it with the myriad problems presented in a jury trial of a "status" case, a more definitive and workable rule of law will be announced.

CONCLUSION AND PRAYER

For the foregoing reasons, respondent prays that the Court reconsider its decree of October 21, 1963, grant a rehearing, and permit respondent an opportunity to be heard.

Respectfully submitted,

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CERTIFICATE

I hereby certify that the above petition for rehearing is presented in good faith and not for the purpose of delay, and that it is restricted to the grounds therein specified in accordance with Rule 58, Paragraph 2.

New Orleans, Louisiana, November 12, 1963.

GEORGE B. MATTHEWS